

22800. Adulteration of tomato ketchup. U. S. v. 9 Dozen Cans of Tomato Ketchup. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 32814. Sample no. 68388-A.)

This case involved a shipment of tomato ketchup that contained excessive mold.

On June 12, 1934, the United States attorney for the District of Rhode Island, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 9 dozen cans of tomato ketchup at Providence, R. I., alleging that the article had been shipped in interstate commerce on or about October 18, 1933, by the Brocton Preserving Co., from Brocton, N. Y., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Brocton Brand Tomato Ketchup * * * Brocton Preserving Co., Brocton, N. Y."

It was alleged in the libel that the article was adulterated in that it consisted wholly or in part of a decomposed vegetable substance.

On July 5, 1934, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

M. L. WILSON, *Acting Secretary of Agriculture.*

22801. Misbranding of rock candy. U. S. v. 147 Jars of Rock Candy. Default decree of condemnation and destruction. (F. & D. no. 32815. Sample no. 67725-A.)

Sample jars of rock candy taken from the shipment involved in this case were found to contain less than one half pound, the labeled weight.

On June 6, 1934, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 147 jars of rock candy at Asbury Park, N. J., alleging that the article had been shipped in interstate commerce on or about February 7, 1934, by Dryden & Palmer, Inc., from Brooklyn, N. Y., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "D. & P. Rock Candy * * * Contents One Half Pound Net Dryden & Palmer, Inc., New York."

It was alleged in the libel that the article was adulterated in that the statement on the label, "Contents One Half Pound Net", was false and misleading and tended to deceive and mislead the purchaser. Misbranding was alleged for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the statement made was incorrect.

On July 20, 1934, no claimant having appeared for the property, judgment of condemnation was entered and it was ordered by the court that the product be destroyed by the United States marshal.

M. L. WILSON, *Acting Secretary of Agriculture.*

22802. Adulteration of canned mustard greens. U. S. v. 29 Cases, et al., of Canned Mustard Greens. Decrees of condemnation, forfeiture, and destruction. (F. & D. nos. 32783, 32792, 32805, 32825, 32826, 33000. Sample nos. 61842-A, 61848-A, 61849-A, 61850-A, 61853-A, 66515-A.)

These cases involved various shipments of canned mustard greens which were insect-infested.

On May 22, June 5, and June 7, 1934, the United States attorney for the Western District of Louisiana, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 127 cases of canned mustard greens in various lots at Eunice, Church Point, DeQuincy, and Lafayette, La. On June 23, 1934, the United States attorney for the Eastern District of Louisiana filed a libel against 89 cases of mustard greens at New Orleans, La. It was alleged in the libels that the article had been shipped in interstate commerce between the dates of October 5, 1933, and May 9, 1934, in part by the Orange Products Co., from Orange, Tex., and in part by the Phelan Co., from Beaumont, Tex., and that it was adulterated in violation of the Food and Drugs Act. The article was labeled in part: "Del-Dixi Brand Mustard Greens * * * Orange Products Company, Packers, Orange, Texas."

It was alleged in the libels that the article was adulterated in that it consisted in whole or in part of a filthy vegetable substance.

The Orange Products Co., intervened and filed answers admitting the allegation of the libels. On June 18, 1934, the cases in the Western District of Louisiana came on for hearing before the court, and judgments were entered condemn-

ing the product, ordering that it be destroyed, and taxing costs against the Orange Products Co. On July 2, 1934, the intervenor having consented to the destruction of the product, judgment was entered ordering that it be condemned and destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

22803. Misbranding of canned sauerkraut. U. S. v. 14½ Cases of Canned Sauerkraut. Default decree of condemnation and forfeiture. Product delivered to charitable organizations. (F. & D. no. 32827. Sample nos. 38841-A, 38874-A, 38875-A.)

Sample cans of sauerkraut taken from the shipment in this case were found to contain less than 1 pound 4 ounces, the weight declared on the label. The label of the article contained unwarranted health claims.

On June 11, 1934, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 14½ cases of sauerkraut at Glendale, Calif., alleging that the article had been shipped in interstate commerce, in part on or about March 27, 1934, and in part on or about April 24, 1934, by the Geo. E. Wolf Co., from Fremont, Ohio, and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Geo E. Wolf Health Brand Sauerkraut. * * * Contents 1 Lb. 4 Oz."

It was alleged in the libel that the article was misbranded in that the statement on the label, "Contents 1 Lb. 4 Oz.", was false and misleading and tended to mislead the purchaser. Misbranding was alleged for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the statement made was incorrect. Misbranding was alleged for the further reason that the following statements on the label were statements regarding the curative or therapeutic effects of the article, and were false and fraudulent: "Health Brand * * * but Nature's own food—a regulator—a stimulator and an invigorator. Physicians are getting over the idea that it is unethical to give out statements; the work of the doctor is not for his own gain but for the benefit of the public—the press of the country has the same duty—and from the two forces the public is the gainer; here is what Doctor Wm. Brady said in a recent issue of the Chicago Daily News: 'Sauerkraut is rich in calcium (lime) content. The average American urban dietary is poor in calcium, sauerkraut and sauerkraut juice serves better than milk, buttermilk, sour milk, or any of the proprietary fermented milk products or bacterial cultures for maintaining a thriving colony of lactic bacilli in the intestine. Lactic fermentation in the intestine is a wholesome or healthful process, because it keeps the field unfavorable to the multiplication of bacteria responsible for putrefactive decomposition. * * * National Food Expert confirms every claim made for sauerkraut * * * richest in vitamins.'"

On July 13, 1934, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be delivered to charitable organizations.

M. L. WILSON, *Acting Secretary of Agriculture.*

22804. Adulteration of butter. U. S. v. 4 Barrels of Butter. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 32835. Sample no. 69639-A.)

Samples of butter taken from the shipment involved in this case were found to contain feathers, rodent hairs, mold, and nondescript debris.

On May 11, 1934, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of four barrels of butter at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about April 30, 1934, by Western Produce Co., Inc., from Abilene, Tex., and charging adulteration in violation of the Food and Drugs Act.

It was alleged in the libel that the article was adulterated in that it consisted in whole or in part of a filthy, decomposed, or putrid animal substance.

On June 5, 1934, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

M. L. WILSON, *Acting Secretary of Agriculture.*